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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,145	12/06/2000	Leo A. Metzger	1	8505

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JEANNE E. LONGMUIR  
CALFEE, HALTER & GRISWOLD, LLP  
Suite 1400  
800 Superior Ave.  
Cleveland, OH 44114-2688

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/731,145

Applicant(s)

Metzger

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 20, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim(s) 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen et al (4147016).

In re independent claims 1 & 6, Jensen discloses an agricultural machine having an adjustable platform (such as head ref 16) supported by the machine (such as the frame ref 12) and a control system for setting height of the platform relative to the ground (see fig 10; and/or col 4, ln 14-40);

the control system including a sensor or sensor mechanism (38) responsive to the angular position of a shaft member around an axis (see fig 4, below the reference point 170; and/or see col 7, ln 14-16) & generating a signal (i.e. to the valve ref 154) representative of the operating height;

the sensor mechanism comprising the shaft member or a member rotatable about the axis (see fig 4, below the reference point 170), a sensor arm (38) mounted to the rotatable member (or shaft) which sensor arm comprising an operating portion for contacting the ground, wherein the arm forms a distance between the center of the shaft & wherein the operating portion contacts the ground which may decrease as the operating height of the platform is decreased (see fig 10; and/or col 7, ln 14-16);

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wherein a forward portion of the operating portion has a continuous curve (see ref 37 or 38);

in re claim 2, the operating portion of the sensor arm has a continuous curve (see ref 37 or 38);

in re cl 3 & 4 & 7, a forward curved portion extending from a location adjacent or close to the shaft rearwardly to a transition region and having a first curvature (the area left reference point 174), and a second curved portion rearward of the first curved portion (i.e. the forward segment of the operating portion described above) and extending from the transition region to a location adjacent of the rear end of the operational region of the sensor shaft and having a second radius of curvature greater than the first radius of curvature (see fig 4 to compare radius of the two curvatures);

in re claim 5, as shown on fig 4, the curved operating portion of the sensor arm comprises a plurality of discrete curved portions extending adjacent one another over substantially the entire operating portion of the sensor arm (for the operating portion adjacent or close to the shaft where changes angle or curvature to form the second continuous curve is being considered for the claimed plurality of curves);

in re claims 8 and 9, the angular displacement of the shaft increases for a given height of ground rise as the operating height of the platform decreases (the shaft will rotate as the ground forces the operating portion upward thereby decreasing the platform's operating height).

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***Response to Arguments & Amendment***

3. Applicant's arguments and amendment filed 5/23/2002 have been fully considered but they are not persuasive.

In response to Applicant's argument & amendment, the examiner provided a more detailed explanation how Jensen meets the claimed limitations. The Examiner does not agree with the Applicant's own finding that Jensen may not be anticipating the claimed limitations, because the references considered by the Examiner is as shown on fig. 4, at ref 38, where it is clearly shown that the sensor arm has at least two curvatures, the first being the forward portion and continuous curvature (where ref. 38 is pointing in fig 4) and the second curvature where the first curvature ends and the second begins toward the rotating shaft (for the rotating shaft please see the lower end of ref 172). Applicant misrepresents Jensen reference in the Exhibits shown and as argued, because the sensor arm considered is rotated as shown on fig 4.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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***Conclusion***

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for the Group is (703) 305-3597.



**Robert Pezzuto**  
**Primary Patent Examiner**  
**GROUP 3671**

áfk/ÁFK  
June 5, 2002